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C O N F I D E N T I A L SECTION 01 OF 02 PRAGUE 000239

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TAGS: [EUN](#) [EZ](#) [EG](#) [PGOV](#) [PREL](#) [PHUM](#)
SUBJECT: A/S FRIED MEETS WITH CZECH POLDIR ON U.S.-EU
GUANTANAMO WAY FORWARD

Classified By: Assistant Secretary Daniel Fried, reasons 1.4 (b) and (d).

11. (C) Summary: In an April 28 meeting, A/S Fried and Czech MFA Political Director Martin Povejsil agreed that we explore developing a non-binding joint U.S.-EU statement on accepting Guantanamo detainees cleared for release to complement an internal EU framework document on the subject. Both agreed to aim for completion of the joint statement by the end of June. Povejsil explained the EU,s need to balance the provision of political cover to member states willing to accept detainees against the desire of unwilling member states to avoid language that suggests that they have a duty to accept detainees. Fried suggested the Czechs use the remaining time in their EU presidency to conclude this framework. Fried advised Povejsil to look at recent USG statements on Guantanamo and interrogation policy when drafting the proposed external joint statement and cautioned against burdening the draft with linkages to bilateral issues and far-reaching statements that would get out ahead of the USG,s ongoing review of detention and interrogation policies. Fried emphasized that the USG wants the joint statement to provide EU member states political cover to accept detainees if they wish, but that the USG does not intend to use it to force states to accept detainees. Povejsil identified information sharing and freedom of movement in the Schengen context as the most sensitive issues inside the EU to concluding the internal framework. End Summary.

Agreement on Need for Joint U.S.-EU Statement

12. (C) Fried told Povejsil he had heard strong views in Brussels from EU and Commission interlocutors (Gilles de Kerchove and Jonathan Faull) that they viewed some type of joint U.S.-EU statement on Guantanamo detainees as integral to politically expediting an internal framework and for providing that framework with a public face. Fried noted that the USG is inclined to go ahead with this, but with the understanding that the internal framework could be finished before the EU summer break in June.

13. (C) Povejsil noted that because some EU member states are not willing to accept detainees, any EU internal framework would have to balance the need to give political cover to member states willing to accept detainees against the desire of unwilling member states to avoid any suggestion that they are being forced by Brussels to take detainees. Povejsil hoped to have the internal framework ready at the General Affairs Ministerial (GAERC) on June 4-5. The parallel U.S.-EU joint statement would need to be compatible with the internal framework. Povejsil agreed with Fried that a joint statement would be a better mechanism than an exchange of letters and said that the USG and EU need to immediately

begin discussions on content. A member of Povejsil's legal affairs team noted later that these discussions should be held with the Czech presidency, not just the EU and Commission bureaucracy.

14. (C) Povejsil expressed a desire to have a joint statement about more than just Guantanamo. He mentioned the need for a statement on deepened cooperation on security measures, and one of the MFA legal advisers also spoke about including a statement to the effect that the legal framework for countering terrorism does not contain any gaps (a view that many EU states have debated with the USG in recent years). Fried cautioned against turning the proposed joint statement into "a solution for all things." Other issues, for example, legal framework issues relating to the detention of terrorists, piracy, and illegal migrants, cannot be addressed between now and June, and efforts to include them in the joint statement (or to create linkages to other issues) will make it difficult or impossible to achieve an agreed text. Povejsil agreed on the importance of not taking on too much, but cited what he predicted would be EU pressure that the joint statement include allusions to a joint commitment to broader cooperation in security matters, even if not in great detail.

Preliminary Ideas About Text

15. (C) Fried emphasized that the USG would not seek a legally binding statement, nor would we seek to use the statement to "trap" unwilling member states into taking

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detainees. Fried stated further that the U.S. goal is to provide political cover to willing member states, some of whom are asking for it as a pre-requisite to accepting detainees, and that we will respect the position of countries like the Czech Republic that decline to take detainees. During the drafting process, Fried suggested that the Czechs look at the text of recent statements about Guantanamo and interrogation policy by the President and Attorney General, as well as the three January 22 executive orders addressing Guantanamo, detention policy, and interrogation policy. These texts have the advantage of containing USG approved language compatible with EU member state viewpoints.

16. (C) Fried laid out several possible elements of a possible joint text: 1) Reference to the EU internal framework and its allowance for member states, if they so choose, to accept Guantanamo detainees; 2) A common commitment to close Guantanamo, alluding to the turning of a new page in transatlantic cooperation; 3) References to rule of law and humane treatment of detainees. 4) Possibly, general language about moving toward a new phase of counterterrorism cooperation, consistent with international law, including on human rights. 5) Also possibly, the elevation and regularization of U.S.-EU discussions on legal framework issues that was inaugurated by previous Legal Adviser John Bellinger with his EU counterparts in the group known as "COJUR".

EU Concerns About Information Sharing, Free Movement

17. (C) Povejsil identified USG information sharing with EU as well as Schengen member states that do not receive detainees, and the related issue of detainees' freedom of movement within the EU and Schengen states, as the major issues in the internal EU discussions about accepting Guantanamo detainees for resettlement. Fried offered that countries receiving detainees will get "substantially the same" information about detainees as U.S. decision makers who approved release or transfer of those detainees. Fried noted that it will be the responsibility of member states to share information. Referring to the 2002 resettlement of certain

Palestinians evacuated from the Church of the Nativity in Bethlehem in EU member states, Fried pointed out that at least some states appear to have the capacity to issue national (rather than Schengen) visas that would have the effect of restricting a resettled detainee's movement within the Schengen area.

Thompson-Jones